



SPONSOR: Rep. Keeley & Rep. Bolden & Sen. Henry
Rep. Brady

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 158

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO ALCOHOLIC LIQUORS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 101, Title 4 of the Delaware Code by making deletions as shown by strikethrough and
2 insertions as shown by underline as follows:

3 § 101. Definitions.

4 As used in this title, in addition to their usual meaning:

5 (6) "Beer garden" means a defined, outdoor establishment not less than 10,000 contiguous square feet, which is
6 open to the public for at least 5 consecutive months. A beer garden must employ a daily average of not less than 25 full
7 time employees. A beer garden may sell beer, wine, and spirits by the glass or beer by the bottle, for consumption on any
8 portion of the licensed premises. The sale of food is not required for licensure, but is permitted. The boundaries of a beer
9 garden must be enclosed with a barrier no less than 42 inches high from the floor elevation, constructed of wood, concrete,
10 plastic, rope, or wrought iron fencing, or other approved material A beer garden must have a physical structure, which may
11 be permanent or removable, and must be substantial. A substantial physical structure shall mean equipment and structures
12 costing no less than \$250,000 at the time of acquisition. A beer garden license is not available for an outdoor space that is
13 adjacent to or connected in any way with another licensed establishment.

14 ~~(18)~~(19) "Establishment" means any place located physically in this State where alcoholic liquor of 1 or more
15 varieties is stored, sold or used by authority of any law of this State, including a hotel, restaurant, tavern, beer garden,
16 or club as defined in this section, or where alcoholic liquor of 1 or more varieties is manufactured by virtue of any law
17 of this State.

18 Section 2. Amend § 512, Title 4 of the Delaware Code by making deletions as shown by strikethrough and
19 insertions as shown by underline as follows:

20 § 512. Licenses for taprooms, hotels, restaurants, motorsports speedways, concert halls, beer gardens, or clubs;
21 food concessionaires at horse racetracks or multi-purpose sports facilities; dinner theater performances; bowling alleys;

movie theaters; caterers; removal of partially consumed bottles from premises; beverages for personal consumption at racetracks; air passenger carriers; names of licensed establishments.

(a) Any person, who is the owner or lessee, or who is recognized by the Commissioner as being in charge of a hotel, beer garden, motel, taproom, restaurant, motorsports speedway, concert hall, club or multiple activity club, may apply to the Commissioner for a license to purchase spirits or wine or to purchase beer from a manufacturer or from an importer and to receive, keep and sell such spirits or wine either by the glass or by the bottle, or beer by the glass as draft beer or by the bottle for consumption on any portion of the premises approved by the Commissioner for that purpose. Such a license entitles a club to sell such spirits, wine or beer only to members of that club. A multiple activity club which holds such a license may apply for an additional license to sell such spirits, wine or beer to any person who is a guest of such club or of a member of such club who is duly registered in accordance with a bylaw or rule of such club, approved by the Commissioner, provided that if the Commissioner determines that any applicant is not a multiple activity club, as defined in § 101 of this title, the application shall be denied. There shall be no age restrictions on persons permitted on the premises of a licensed multiple activity club.

(d) Any person who has purchased a bottle of alcoholic liquor other than beer from a hotel, restaurant, motorsports speedway, concert hall, beer garden, club, dinner theater or horse racetrack licensed under this section, and who has partially consumed the contents of such bottle on the licensed premises, may remove it from the licensed premises for the purpose of consumption off the licensed premises. Any person who has purchased a bottle of alcoholic liquor other than beer from a caterer and who has partially consumed the contents of such bottle on the premises, approved by the Commissioner for the catering may remove it from the approved premises for the purpose of consumption off the approved premises.

Section 3. Amend § 554, Title 4 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 554. License fees.

(rr) For a license to sell alcoholic liquor in a beer garden, the biennial fee shall be \$2,000. The holder of a beer garden license is not required to have a patio permit, but if the beer garden license holder desires a variance to Rule 42.1 [CDR 4-Rule 42.1], or a subsequently adopted rule, the biennial variance permit fee shall be \$100 per variance.

SYNOPSIS

This bill creates a new type of liquor license for beer gardens. Beer gardens are outdoor venues that operate at least 5 months, of each year and are independent of any other licensed establishment. The licensing and operation of beer gardens provides new business creation opportunities and a chance to enhance retail areas in Delaware. However, the General Assembly is also mindful of concerns that by creating a license for outdoor space, existing businesses could be affected. For this reason, the definition of a beer garden includes stringent requirements that will limit the number of

establishments that could be eligible for a license issued pursuant to this Act. The biennial fee for a beer garden license is set at \$2,000.